

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SEAN NICHOLAS COYLE,

Plaintiff,

No. CIV S-04-2309 LKK KJM P

vs.

CHARLOTTE HARRIS-WHITE, et al., ORDER

Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, seeks relief under 42 U.S.C. § 1983.

On April 5, 2006 the court found that it would not order service of process on defendant Burgess. Plaintiff has asked that the court reconsider that ruling. Based upon the information provided by plaintiff in his September 18, 2006 motion, and a second review of plaintiff's complaint, the court finds that service of process is appropriate for defendant Burgess as plaintiff's complaint states a claim upon which relief may be granted against Burgess under the Eighth Amendment.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Plaintiff's September 18, 2006 motion for reconsideration is granted.

3 2. Service of process is appropriate for defendant Burgess.

4 3. The Clerk of the Court shall send plaintiff one USM-285 form, one summons,
5 an instruction sheet and a copy of the complaint filed October 29, 2004.

6 4. Within thirty days from the date of this order, plaintiff shall complete the
7 attached Notice of Submission of Documents and submit the following documents to the court:

8 a. The completed Notice of Submission of Documents;

9 b. One completed summons;

10 c. One completed USM-285; and

11 d. Two copies of the endorsed complaint filed October 29, 2004.

12 5. Plaintiff need not attempt service on defendant Burgess and need not request
13 waiver of service. Upon receipt of the above-described documents, the court will direct the
14 United States Marshal to serve defendant Burgess pursuant to Federal Rule of Civil Procedure 4
15 without payment of costs.

16 DATED: September 20, 2006.

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19 UNITED STATES MAGISTRATE JUDGE
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24 coy12309.1(a)
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CHARLOTTE HARRIS-WHITE

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

1 completed summons form

1 completed USM-285 forms

2 copies of the 10/29/04
Complaint

DATED:

Plaintiff